

STATE OF MICHIGAN  
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter, on the Commission's own  
motion to consider Ameritech Michigan's  
compliance with the competitive  
checklist in Section 271 of the  
Telecommunications Act of 1996

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Case No. U-11104

MICHIGAN PUBLIC SERVICE  
FILED

DEC 19 1996

COMMISSION

**ATTORNEY GENERAL'S RESPONSE TO AMERITECH  
MICHIGAN'S COMPLIANCE FILING AND REQUEST FOR  
APPROVAL OF PLAN ON INTRALATA TOLL DIALING PARITY**

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Dated: December 19, 1996

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MICHIGAN'S COMPLIANCE FILING AND REQUEST FOR  
APPROVAL OF PLAN ON INTRALATA TOLL DIALING PARITY**

Attorney General Frank J. Kelley hereby files the following response to Ameritech Michigan's filing regarding its compliance with the intraLATA toll dialing parity requirements. The Attorney General makes this filing pursuant to the Michigan Public Service Commission's (MPSC) August 28, 1996 Order Establishing Procedures in the above-captioned case. In support of his response, the Attorney General states as follows:

1. Section 271(c)(2)(B)(xii) of the Federal Telecommunications Act of 1996, Pub. Law 104-104, 110 Stat 56 (1996), 47 USC 151 et seq provides that to comply with the competitive checklist, Ameritech Michigan must provide:

Nondiscriminatory access to such services or information as are necessary to allow the requesting carrier to implement local dialing parity in accordance with the requirements of section 251(b)(3).

Section 271(e)(2) provides as follows:

(A) PROVISION REQUIRED. -- A Bell operating company granted authority to provide interLATA services under subsection (d) shall provide intraLATA toll dialing parity throughout that State

coincident with its exercise of that authority.

(B) LIMITATION. -- Except for single-LATA States and States that have issued an order by December 19, 1995, requiring a Bell operating company to implement intraLATA toll dialing parity, a State may not require a Bell operating company to implement intralata toll dialing parity in that State before a Bell operating company has been granted authority under this section to provide interLATA services originating in that State or before 3 years after the date of enactment of the Telecommunications Act of 1996, whichever is earlier. Nothing in this subparagraph precludes a State from issuing an order requiring intraLATA toll dialing parity in that State prior to either such date so long as such order does not take effect until after the earlier of either such dates.

(Emphasis added).

2. In orders dated February 24, 1994 and July 19, 1994, the MPSC found that intraLATA toll dialing parity was necessary for effective competition and was in the public interest. Therefore, the MPSC ordered the implementation of intraLATA toll dialing parity to be effectively in place no later than January 1, 1996.

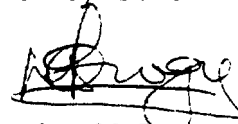
3. The Attorney General submits that to the extent that the MPSC's orders requiring the implementation of intraLATA toll dialing parity were issued well before the December 19, 1995 date established by the FTA, any argument by Ameritech Michigan of the existence of a linkage between its being able to enter the interLATA market and the schedule for implementing intraLATA toll dialing parity is untenable and therefore should be vigorously rejected.

4. The Attorney General believes that Ameritech Michigan's ostensible compliance filing and request for approval of plan on intraLATA toll dialing parity is inconsistent with the MPSC's orders, and the Court of Appeals affirmance of the orders. Indeed, Ameritech's filing is tantamount to a request that the MPSC "agree" that it was wrong and reverse its principled position. Clearly, to approve

Ameritech's proposal would not only be contrary to the requirements of the law, but it will also be bad public policy. Accordingly, the Attorney General respectfully requests that the MPSC enter an order rejecting Ameritech's filing and instruct the Company to comply with the outstanding orders on the schedule for implementing intraLATA toll dialing parity.

Respectfully submitted,

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COMMENTS OF THE  
MICHIGAN PUBLIC SERVICE COMMISSION STAFF

On November 27, 1996 Ameritech Michigan filed information in the subject proceeding regarding intraLATA dialing parity. In its filing Ameritech Michigan has also requested the Michigan Public Service Commission (Commission) issue an order:

(a) finding that Ameritech Michigan is in compliance with Section 271(c)(2)(B)(xii) of the federal Telecommunications Act of 1996 (the FTA);

(b) finding that, at the time it provides interLATA services, Ameritech Michigan shall be in compliance with the requirements of Section 271(e)(2)(A) of the FTA and related portions of the FCC's Second Report and Order and Memorandum Opinion and Order, released August 8, 1996, in CC Docket No. 96-98 (FCC Order);

(c) approving Ameritech Michigan's plan to provide intraLATA toll dialing parity pursuant to the FCC Order; and

(d) finding that Ameritech Michigan's plan is satisfactory compliance with the Commission's policy regarding intraLATA toll dialing parity as set forth in previous orders issued in Case No. U-10138.

As is provided in the Commission's August 28, 1996 Order, "interested parties will have 14 business days to file replies or comments related to Ameritech Michigan's filing(s)" in this proceeding. Order, p. 3. In compliance with that Order, the Michigan Public Service Commission

Staff (Staff) herein files its comments on Ameritech Michigan's November 27, 1996 filing. Staff notes that additional information is requested and Staff proposes that these areas be addressed immediately by Ameritech Michigan but in no case later than seven days from the filing of these comments so that determinations can be made by the Commission in this proceeding.

#### **I. Compliance with Section 271(c)(2)(B)(xii) of the FTA**

Section 271 of the FTA contains the so called check list items with which Ameritech Michigan must comply prior to its provisioning of in-region interLATA telecommunications service. Item 12 of that checklist requires that Ameritech Michigan provide:

Nondiscriminatory access to such services or information as are necessary to allow the requesting carrier to implement local dialing parity in accordance with the requirements of section 251(b)(3).

In fulfilling the Section 251(b) obligations imposed on all local exchange carriers, subsection (3) imposes the following duty on Ameritech Michigan:

**DIALING PARITY.** - The duty to provide dialing parity to competing providers of telephone exchange service and telephone toll service, and the duty to permit all such providers to have nondiscriminatory access to telephone numbers, operator services, directory assistance, and directory listing, with no unreasonable dialing delays.

Staff will discuss herein the compliance of Ameritech Michigan with the Section 251(b)(3) obligations of the FTA and related FCC requirements specified in its Second Report and Order in CC Docket 96-98. However, Staff does not believe that it is appropriate or necessary for the Commission to make a separate determination at this time regarding Ameritech Michigan's compliance with any of the Section 271 checklist obligations with which Ameritech Michigan must comply in order to qualify for interLATA relief. As the FCC indicated in its Order addressing Section 251(b)(3) obligations:

We decline to address section 271(c)(2)(B) issues in this Order. We will consider each BOC's application to enter in-region, interLATA

services pursuant to section 271(c)(2)(B) on a case-by-case basis to determine whether the BOC has complied with section 271(c)(2)(B)(xii). (FCC Order, footnote 20).

It is simply unnecessary at this time for this Commission to address Section 271 compliance until waiver application has been made. This point is emphasized by the FCC's Notice delineating the Procedures For Bell Operating Company Applications Under New Section 271 of the Communications Act. These procedures establish a 20 day time period after the FCC's Notice of a BOC filing for state commissions to submit their written recommendations.

Some local and toll dialing parity obligations of Section 251 are discussed separately in the FCC's order. Compliance with specific toll dialing obligations are therefore discussed separately by Staff below in Section III of these comments. General dialing parity obligations and local dialing parity obligations will be discussed at this time.

Staff first notes two things for the record. First, Ameritech Michigan specifies in its November filing that it provides local dialing parity statewide. Ameritech Michigan filing, p. 3. Staff notes that local dialing parity, as defined by Ameritech Michigan, and associated services are offered by Ameritech Michigan to licensed LECs in exchanges where those LECs are permitted to offer service. However, although this service is therefore **offered** in exchanges statewide, it is not clear from Ameritech Michigan's filing whether it is in fact **provided** in exchanges statewide. The exchanges in which a licensed competitor is actually providing service and therefore availing itself of local dialing parity and associated operations have not been specified by Ameritech Michigan.

Secondly, Staff notes that Ameritech Michigan specifies that the local dialing parity obligations of LECs are reciprocal. Again Staff notes that Section 251(f)(2) of the FTA permits these obligations to be suspended or modified for LECs serving fewer than 2 percent of the Nation's subscriber lines. Applications of this nature, however, have not been filed with this Commission to date.

Dialing parity is defined in Section 3(a)(39) of the FTA as follows:



...that a person that is not an affiliate of a local exchange carrier is able to provide telecommunications services in such a manner that customers have the ability to route automatically, without the use of any access code, their telecommunications to the telecommunications services provider of the customer's designation from among 2 or more telecommunications services providers (including such local exchange carrier.).

Staff is in agreement that as stated by Ameritech Michigan, use of access codes is not required in the route of local calls to alternative providers. In regard to local dialing parity, however, the FCC indicated the following:

We decline at this time to prescribe additional guidelines to address the methods that LECs may use to accomplish local dialing parity given our finding that local dialing parity will be achieved upon implementation of the number portability and interconnection requirements of section 251, as well as the provisions requiring nondiscriminatory access to telephone numbers found in section 241(b)(3). (FCC Order, Para. 9).

This Commission is in the process of making determinations on a number of interconnection issues delineated in section 251 of the FTA in the form of negotiated and arbitrated interconnection agreements. Whether Ameritech Michigan intends to implement the orders as issued by the Commission or whether further Commission or court action will be sought has not as yet been determined.

The FCC has also addressed the nondiscrimination requirements of Section 251(b)(3) in its discussion of access to telephone numbers (including the availability of a separate NXX in each area code to each licensed provider of local service), access to operator services, access to directory assistance and directory listings and prohibition against unreasonable dialing delays. Several specific disputes in these areas have been addressed by arbitration panels and/or the Commission. However, Ameritech Michigan's filing has not addressed compliance with the FCC requirements on these issues as specified in the FCC Order. Until such information is provided, a specific determination cannot be made by this Commission regarding compliance.

Finally, Staff notes that the FCC has specifically addressed the issue of cost recovery for dialing parity costs in its August Order. The FCC has required that costs related to dialing parity

must be recovered on a competitively neutral basis. FCC Order, Para. 91. However, the FCC also provides the following:

We recognize that, unlike the case for number portability costs, states would not be able to establish a cost allocator based on numbers of lines because such an allocator could not apportion costs on a competitively neutral basis where dialing parity is provided to a CMRS provider. We expect that states will establish a competitively neutral allocator that can be used to apportion costs among all providers. (FCC Order, footnote 229).

Since the Michigan Commission has adopted a allocator which assigns dialing parity costs on the basis of numbers of lines, Ameritech Michigan must address the compliance of this allocator with the FCC requirement cited above. Again this issue was not addressed by Ameritech Michigan in its November filing.

## **II. Compliance with Section 271(e)(2)(A) of the FTA**

Section 271(e)(2)(A) of the FTA provides the following:

(A) PROVISION REQUIRED. - A Bell operating company granted authority to provide interLATA services under subsection (d) shall provide intraLATA toll dialing parity throughout that State coincident with its exercise of that authority.

In Staff's opinion, Section 271(e)(2)(B) is also relevant to this Commission's determinations.

LIMITATION. - Except for single-LATA States and States that have issued an order by December 19, 1995, requiring a Bell operating company to implement intraLATA toll dialing parity, a State may not require a Bell operating company to implement intraLATA toll dialing parity in that State before a Bell operating company has been granted authority under this section to provide interLATA services originating in that State or before 3 years after the date of enactment of the Telecommunications Act of 1996, whichever is earlier. Nothing in this subparagraph precludes a State from issuing an order requiring intraLATA toll dialing parity in that State prior to either such date so long as such order does not take effect until after the earlier of either such dates.

In summary this section provides that a Bell operating company is not required to provide intraLATA dialing parity until it is granted authority to provide interLATA services or before 3

years after the enactment of the FTA except for in "states that have issued an order by December 19, 1995, requiring a Bell operating company to implement intraLATA toll dialing parity" on a date earlier than provided by the FTA (emphasis added). This Commission's Orders in Case No. U-10138, have Michigan included with states who have ordered the provisioning of intraLATA dialing parity prior to its provisioning of interLATA service. As U. S. District Court Judge Robert Holmes Bell's November 4, 1996 opinion in Ameritech v Strand, et al, U. S. District Court Docket No. 5:96-CV-166 noted, section 271(e)(2)(B) of the FTA was tailored to recognize that Michigan and other states had already implemented dialing parity:

The Federal Telecommunications Act and the discussion in the Congressional Record accompanying it clearly state that the exception in §271(e) was created for Michigan and nine other states... (Bell opinion, p 16).

\* \* \*

The Federal Government has spoken with regard to its interest in Michigan's regulation of its intraLATA toll market. Congress expressly exempted Michigan from the requirements of linkage between interLATA capabilities and intraLATA dialing parity.

Congress appreciated the State's recognition that dialing parity is a key to healthy competition for in-State toll calls, and specifically determined that the States "should not be second-guessed and preempted on the Federal level." [citations omitted]. (Bell opinion, pp 18-19).

\* \* \*

The Federal Telecommunications Act has not placed this matter beyond the reach of Michigan. In fact, the Federal Telecommunications Act created an exception for Michigan and nine other states. (Bell opinion, p 20).

In the subject filing, Ameritech Michigan has requested a determination that it complies only with Section 271(e)(2)(A) of the FTA even though it discusses Case No. U-10138 and the fact that Ameritech Michigan has appealed the U-10138 orders. Ameritech Michigan provides only very general information on these appeals. A more detailed discussion of the history of this situation would be helpful. The most recent dialing parity orders were issued on June 26, 1996 and October 7, 1996. Ameritech Michigan, on October 11, 1996, filed a federal district court action against the MPSC Commissioners individually in Ameritech v Strand, et al, USDC-WS No.

5:96-CV-166 (Honorable Robert Holmes Bell) attempting to seek an injunction against the enforcement of the MPSC's orders in U-10138, including the Commission's June 26, 1996 and October 7, 1996 orders. Judge Bell issued his decision and order dated November 4, 1996, in which the federal court abstained from the matter and denied Ameritech's Motion for Injunctive Relief.

On November 5, 1996, Ameritech filed a claim of appeal in Ameritech v MPSC, Court of Appeals Docket 198706, from the MPSC order of June 26, 1996 and October 7, 1996 in Docket U-10138, but did not at that time seek a stay of the MPSC orders.

On November 5, 1996, AT&T and MCI filed a Complaint for Mandamus in the Ingham County Circuit Court, Case No. 96-84800-AW. The Commission filed a Motion for Intervention which was granted. On November 20, 1996, Judge William Collette, entered an Order Granting Writ of Mandamus which stated:

Michigan Bell Telephone Company, d/b/a Ameritech Michigan (Ameritech) shall fully comply with the Michigan Public Service Commission's June 26, 1996 and October 7, 1996 orders in MPSC Case No. U-10138 requiring compliance with the MPSC's previous orders in U-10138. This compliance will include conformance with the implementation schedule ordered by the Commission.

On November 22, 1996, Ameritech filed a Motion to Stay the MPSC orders in U-10138 in Court of Appeals Docket 198706. Ameritech also filed a claim of appeal of the Ingham County Circuit Court's November 20, 1996 Mandamus Order in Court of Appeals Docket 199383, but did not file a Motion or brief seeking a stay of the Mandamus order.

On December 4, 1996, the Court of Appeals issued its stay order in Ameritech v MPSC, Court of Appeals Docket 198706. On December 19, 1996, the Commission filed an Application for Leave to Appeal with the Michigan Supreme Court in an attempt to have the Court of Appeals' stay set aside.

In its filing, Ameritech Michigan states that it did not file copies of the court related materials because of their volume. Staff would note that the Commission specifically required in its prior order in this proceeding that copies should be provided. Since the Staff expects the

Commission to forward the entire record of this proceeding to the FCC in its consultive role, Staff believes the filing of these materials is required to permit the Commission to fulfill its responsibilities with regard to Ameritech Michigan's application under FTA, section 271. Ameritech Michigan should provide copies of **all** the opinions and orders with regard to its multiple court filings.

According to Ameritech Michigan's filing, it is its intention to provide intraLATA dialing to all of its Michigan access lines 10 days prior to its provisioning of interLATA services in the state. In so doing Staff believes Ameritech Michigan will have complied with Section 271(e)(2)(A) provisions of the FTA. Although Staff does not object to a Commission determination in this regard, it clarifies, as noted above, that subsection B applies to Michigan as well.

### **III. Compliance of Ameritech Michigan's IntraLATA Toll Dialing Plan with the Requirements of the Federal Communications Commission.**

On August 8, 1996 the FCC adopted its Second Report and Order in CC Docket 96-98. Among the issues discussed in that order was the implementation of toll dialing parity by the Bell Operating Companies. Rule 51.213 adopted in that Order provides the following:

- (a) A LEC must file a plan for providing intraLATA toll dialing parity throughout each state in which it offers telephone exchange service. A LEC cannot offer intraLATA toll dialing parity within a state until the implementation plan has been approved by the appropriate state commission or the Commission.

Ameritech Michigan requests that its proposed dialing parity plan therefore be approved by this Commission.

Staff notes Section 271(e)(2)(B) exempts states that have issued dialing parity orders prior to December 19, 1995 from the provisions of Sec. 271(e)(2)(A) which requires that intraLATA dialing parity be coincident with the exercise of its interLATA authority. With this exemption, Staff

believes any future action by the FCC related to the implementation of intraLATA dialing parity can only be prospective and applies only to the non-exempted states. By its actions in Case No. U-10138, Michigan is one of the exempt states. Although the FCC has addressed the application of its rules to non-Bell Operating Companies who had implemented intraLATA dialing parity prior to the adoption of its order, the FCC does not address the application of its rules to Bell Operating Companies in the same position. Assuming the FCC action requiring State approval of a plan to implement intraLATA dialing parity governs, Ameritech Michigan is currently and has been since the requirement's inception in non-compliance with the FCC's action. (The FCC's requirement existed only since August 8, 1996.) Given this apparent void in the FCC's action, the Staff has assessed Ameritech Michigan's Plan in light of the FCC's requirements.

The FCC's rules require that a LEC's implementation plan include the following:

- (1) a proposal that explains how the LEC will offer intraLATA toll dialing parity for each exchange that the LEC operates in the state, in accordance with the provisions of this section, and a proposed time schedule for implementation; and
- (2) a proposal for timely notification of its subscribers and the methods it proposes to use to enable subscribers to affirmatively select an intraLATA toll service provider.

Further elaboration of these requirements is contained in the FCC Order.

Staff believes that several areas of Ameritech Michigan's plan require further elaboration. First, although Ameritech Michigan has specified a conversion schedule in its November 27, 1996 filing, the schedule does not specify conversion on an exchange basis but merely specifies the portion of total access lines in which dialing parity will be offered at specific dates (i.e., 50% on December 2, 1996, 70% when interLATA relief is requested, 100% 10 days prior to the exercise of interLATA relief). Although the conversion schedule originally submitted in Michigan's U-10138 proceeding specified the dates when dialing parity would be feasible by exchange, a specific conversion schedule has not been delineated given Ameritech Michigan's most recent conversion proposal. Implementation on an exchange basis appears to be required by the FCC's Rule.

Second, the FCC's Order addresses its requirement for presubscription when dialing parity is implemented. Specifically, the FCC requires that customers be permitted to choose presubscribed carriers for their intraLATA and interLATA toll calls. FCC Order, Para. 35. The FCC also specifies the following:

A LEC's plan may not accomplish toll dialing parity by automatically assigning toll customers to itself, to a customer's currently presubscribed interLATA or interstate toll carrier, or to any other carrier except when, in a state that already has implemented intrastate, intraLATA toll dialing parity, the subscriber has selected the same intraLATA and interLATA presubscribed carrier. (FCC Order, Para. 39).

Its requirements on default assignment of customers to a particular provider is addressed again later in its Order when the assignment of new customers is addressed.

We conclude that "dial-tone providers" should not be permitted automatically to assign to themselves new customers who do not affirmatively choose a toll provider. New customers of a telephone exchange service provider who fail affirmatively to select a provider of telephone toll service, after being given a reasonable opportunity to do so, should not be assigned automatically to the customer's dial-tone provider or the customer's preselected interLATA toll or interstate toll carrier. Rather, we find that consistent with current practices in the interLATA toll market, such nonselecting customers should dial a carrier access code to route their intraLATA toll or intrastate toll calls to the carrier of their choice until they make a permanent, affirmative selection. (FCC Order, Para. 78).

Ameritech Michigan has not addressed the assignment of non-selecting new and/or existing customers in its November filing in this proceeding. Whether Ameritech Michigan complies with this part of the FCC's requirements can therefore not be determined.

It is Staff's position that the Commission cannot make a determination at this time regarding the compliance of Ameritech Michigan's proposed toll dialing parity plan with the FCC's requirements due to lack of information and/or compliance with the requirements discussed above. Staff, notes for the record that Ameritech Michigan's implementation plan (although not the schedule) does appear to comply with the requirements established by this Commission in U-10138. Whether Ameritech Michigan's plan must comply with the FCC's requirements is

uncertain. Its compliance with FCC requirements is uncertain at this time, however.

#### **IV. Compliance with Commission Orders in Case No. U-10138**


The Commission's most recent Order in Case No. U-10138, the intraLATA toll dialing parity proceeding was issued on October 7, 1996. It required that Ameritech Michigan immediately comply with the intraLATA dialing parity schedule prescribed in its Orders of February 24, 1994, July 19, 1994, March 10, 1995 and June 26, 1996. In the subject filing Ameritech Michigan provides that it began to offer intraLATA dialing parity to 50% of its access lines on December 2, 1996, will offer parity to 70% of its access lines when its application for interLATA relief is filed with the FCC, and will offer parity to 100% of its access lines 10 days prior to its provisioning of interLATA service. However, the Commission's orders speak for themselves. Any modification of the U-10138 schedule must occur in that proceeding, not the instant case. The instant proceeding can not be used as a vehicle for modifying the result from another contested proceeding. Ameritech Michigan is especially aware of this since it asserted that the Commission failed to create a sufficient evidentiary record when issuing the dialing parity task force decision in U-10138. (Ameritech brief, Court of Appeals No. 184718, page 16). Further, court proceedings regarding these orders are ongoing. Staff recommends that a finding regarding Ameritech Michigan's compliance with the U-10138 Orders is inappropriate at this time.



## **V. Conclusion**

As discussed herein, Staff believes certain findings which Ameritech Michigan has requested be made by this Commission should not be made at this time. Other findings may be appropriate when additional information is submitted to completely address the requirements of the FTA and the FCC Order. Whether Ameritech Michigan's toll dialing parity plan must comply with the FCC's requirements is also uncertain as discussed above. Staff proposes that Ameritech Michigan submit information on these latter issues within seven days of the filing of these comments so that the Commission may have sufficient information available to it to review in its decision making process.

Respectfully submitted,  
**MICHIGAN PUBLIC SERVICE COMMISSION  
STAFF**



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**DATED: December 19, 1996**

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Telecommunications Act of 1996. /

Case No. U-11104

**PROOF OF SERVICE**

STATE OF MICHIGAN    )  
                                  ) ss  
COUNTY OF INGHAM    )

Marie Parker, being first duly sworn, deposes and says that on **December 18, 1996**, she served a true copy of **Comments of the Michigan Public Service Commission Staff** upon the following parties by depositing the same in a United States postal depository enclosed in an envelope bearing postage fully prepaid, plainly addressed as follows:

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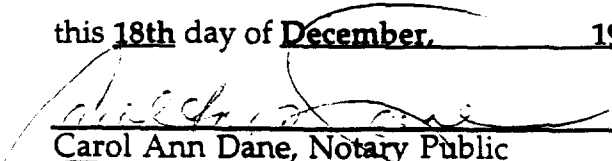
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Marie Parker

Subscribed and sworn to before me  
this 18th day of December, 1996.

  
Carol Ann Dane, Notary Public  
Eaton County, Michigan  
My Commission Expires: 7/23/2000



DEC 19 1996

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with the competitive checklist in Section 271 ) Case No. U-11104  
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**RESPONSE OF  
MCI TELECOMMUNICATIONS CORPORATION  
COMPLIANCE FILING AND REQUEST  
FOR APPROVAL OF PLAN ON INTRALATA TOLL DIALING PARITY**

MCI Telecommunications Corporation ("MCI"), by its attorney, submits this response to Ameritech's Compliance Filing and Request for Approval of Plan on IntraLATA Toll Dialing Parity submitted in the above-captioned proceeding. Ameritech submitted its Plan on IntraLATA Toll Dialing Parity (hereinafter referred to as the "Plan") purporting to show compliance with the dialing parity requirements of Section 312b of the Michigan Telecommunications Act, 1991 PA 179, ("MTA") and the dialing parity provisions of Section 271 of the federal Telecommunications Act of 1996 (the "Act"). MCI requests that the Commission find that 1) Ameritech is not in compliance with Section 271(c)(2)(B)(xii) of the Act; 2) it is premature to determine whether Ameritech will be in compliance with the requirements of Section 271(e)(2)(A) and the FCC Order; and 3) Ameritech's Plan is not in compliance with the MTA and Commission Orders on intraLATA toll dialing parity.

**Attachment B, Item 12**

*a. Is Ameritech Michigan providing intraLATA dialing parity in Michigan on a statewide basis?*

Ameritech Michigan is not currently providing intraLATA toll dialing parity in Michigan on a statewide basis. On June 26, 1996, the Commission issued an Order Granting Motion to Compel in which it required Ameritech Michigan to comply with previous Commission orders and implement intraLATA toll dialing parity immediately. This order was subsequently affirmed by the Commission in its Order on Rehearing issued on October 7, 1996. Ameritech Michigan subsequently sought a temporary restraining order and an injunction in federal court, both of which were denied. Although Ameritech Michigan was successful in convincing the Court of Appeals to grant a stay of the Commission's Order, MCI believes that the Commission's Orders are absolutely consistent with the MTA, federal law and sound public policy. In any event, MCI would note that at the time of its November 27 filing in this proceeding, Ameritech Michigan was in direct violation of the Commission's Orders in U-10138, and a order of the Ingham County Circuit Court granting a request for mandamus and requiring compliance with the Commission's orders and implementation of intraLATA dialing parity.

*b. Is Ameritech Michigan providing local dialing parity in Michigan on a statewide basis?*

Ameritech Michigan is correct that the Federal Communications Commission ("FCC") in its Second Report and Order in CC Docket No. 96-98 (FCC 96-333) concluded that "local dialing parity will be achieved upon implementation of the number portability and interconnection requirements of section 251." (FCC Order, ¶ 71) It is premature at this time for the Commission to

conclude that Ameritech Michigan has fully implemented either the number portability or interconnection requirements of section 251. First, there are a number of issues related to number portability and interconnection that are still pending in the MCI/Ameritech Michigan arbitration at Case No. U-11168. For example, there has been no final determination on a competitively neutral cost recovery mechanism for the costs of interim portability solutions. There are also other issues related to interconnection that are currently in dispute. Second, beyond specific issues in dispute regarding number portability and interconnection, there is the issue of implementation. It is simply premature for the Commission to make any judgment on whether Ameritech Michigan has complied with its number portability and interconnection obligations under the Act until interconnection agreements are executed and Ameritech Michigan has shown that it has fully implemented the terms of those agreements.

*c. Does Ameritech Michigan have any Commission, state court, federal court, Federal Communications Commission, or legislative action pending related to the provision of intraLATA dialing parity and local dialing parity? If yes, supply copies of Ameritech Michigan's or any of its affiliates' pleadings or proposals related thereto. If state or federal courts have issued orders related to intraLATA dialing parity or local dialing parity, provide copies of those orders.*

As the Commission is well aware, the Michigan Court of Appeals issued a stay of the Commission's Order requiring Ameritech Michigan to implement immediately intraLATA toll dialing parity throughout its service territory in Michigan. To date, MCI and AT&T Communications of Michigan, Inc. ("AT&T") have filed appeals with the Michigan Supreme Court to reverse this ruling of the Court of Appeals. (Docket Nos. 108004 and 108005.) MCI also understands that the Michigan Attorney General has entered an appearance in these appeals and has

announced his intention to support the positions of MCI and AT&T.

Although not mentioned by Ameritech Michigan in its filing, there are issues related to local dialing parity (number portability and interconnection) that are currently pending in the MCI/Ameritech arbitration, Case No. U-11168.

*d. If statewide intraLATA dialing parity is not being offered, is the necessary equipment deployed to provide intraLATA dialing parity at the same time as Ameritech Michigan or any of its affiliates is permitted to offer interLATA service? For the purpose of this question, such preparedness means actually providing the service, not simply taking orders.*

Ameritech Michigan is in the best position to respond to this question. MCI would note, however, that Ameritech Michigan implemented intraLATA toll dialing parity in an additional 40% of its exchanges within a few days of its November 27, 1996 filing in this proceeding, i.e., on December 2, 1996. This fact, together with the fact that Ameritech Michigan has been under a legal obligation to implement dialing parity since the Commission's October 7, 1996 Order, suggests that Ameritech Michigan has deployed or should have deployed the necessary equipment to provide intraLATA dialing parity.

*e. Does Ameritech Michigan intend to provide intraLATA dialing parity to more than 10% of its customers prior to being released from its in-region interLATA restrictions? If so, what would be the magnitude of that action in terms of percentage of customers and percentage of access lines?*

It appears that Ameritech Michigan has implemented dialing parity in 10% of its exchanges.



## **II. IntraLATA Toll Dialing Parity Plan**

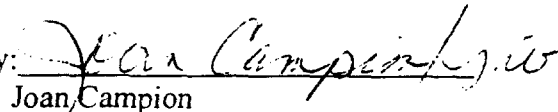
MCI urges the Commission to find that Ameritech Michigan's Plan is not in compliance with the Commission's Orders in Case Nos. U-10138, the MTA, the Act, the FCC Order or the rules. MCI would note that at the time of its filing, Ameritech's Michigan was acting in direct violation of the Commission's Orders in Nos. U-10138, and an order of the Ingham County Circuit Court granting a request for mandamus and requiring compliance with the Commission's orders and implementation of intraLATA dialing parity. Although a stay has subsequently been issued, MCI believes that the Commission's Orders in U-10138 will ultimately be upheld and urges the Commission not to conclude that Ameritech Michigan's latest attempt to avoid its legal obligations is consistent with the Commission's previous orders, the MTA, the Act or the FCC Order.

WHEREFORE, MCI urges the Commission to reject Ameritech Michigan's request for relief and issue an order consistent with this response.

Respectfully submitted,

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Dated: December 19, 1996

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